UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

UNITED STATES OF AMERI	CA,)	
)	
Plaintiff,)	
)	
VS.)	2:11-CR-453-PMP-CWH
)	
DAVID M. MARK,)	MINUTES OF THE COURT
)	
Defendant.)	DATED: <u>April 8, 2013</u>
PRESENT: THE HONORABLE	PHILIP M.	PRO, UNITED STATES DISTRICT JUDGE
DEPUTY CLERK: Donna Sh	erwood	RECORDER: <u>Henry Enriquez</u>
COUNSEL FOR PLAINTIFF:	Brian l	MINUTES OF THE COURT
COUNSEL FOR DEFENDANT:	Michael	l Fawer, Miles Mark

PROCEEDINGS: HEARING ON DEFENDANT'S RULE 29 MOTION FOR JUDGMENT OF ACQUITTAL [130]

9:00 a.m. Court convenes. Defendant is present on a PR Bond.

The Court advises counsel the clerk received a call last week from Juror #9, who is requesting to be excused due to a financial hardship. The Court will discuss this matter further with counsel.

The Court hears the arguments of Mr. Fawer and Ms. Griswold.

IT IS ORDERED Defendant's Rule 29 Motion for Judgment of Acquittal [130, 132] is Denied.

IT IS ORDERED the Government's Motion to Exclude the Testimony of Defendant's Proposed Expert Butler, or in the alternative, Limit James Butler's Testimony [80] is granted without prejudice to the defendant to again offer Butler in the event the defendant testifies or other evidence is presented on behalf of the defendant.

2:11-CR-453-PMP-CWH

4/8/2013

Page 2

IT IS FURTHER ORDERED Defendant's Motion in Limine to Exclude Use at Trial of a Withdrawn Plea Agreement or in the alternative to Limit its Use [68] is **denied without prejudice** to defendant to renew it at such time as the Government attempts to use the plea agreement for impeachment purposes.

9:50 a.m. Court stands at recess.

10:10 a.m. Court reconvenes.

Mr. Fawer announces the defense rests.

Juror #9 is contacted by telephone and the Court and counsel confer with him regarding his request to be excused due to a financial hardship. After discussion with Juror #9, it is determined he will remain on the jury for the duration of the trial.

The Court hears and rules on the objections of counsel to the proposed jury instructions.

12:00 p.m. Court stands at recess.

1:30 p.m. Court reconvenes.

The Court does not find it appropriate to give Defendant's Proposed Jury Instruction No. 8 Theory of Defense [135] to the jury.

The Court and counsel confer on miscellaneous issues.

1:50 p.m. Court adjourns.

LANCE S. WILSON, CLERK
United States District Court
By: /s/
Donna Sherwood, Deputy Clerk